IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

WP(C).No. 28888 of 2007(L)

ARC.1409/2005 of PRL.S.C.,THALASSERY
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PETITIONER:

PREMRAJAN ARINGALAYAL,
S/O.KANNAN, AGED 52 YEARS, POSTAL ASSISTANT,
PAREKATTIL HOUSE, ATHAZHAKUNNU ROAD,
P.O.KOTTALI, KANNUR.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENT:

KANNUR TOWN SERVICE CO-OPERATIVE BANK
LTD., NO.C.844 REP.BY ITS SECRETARY,
SRI.P.V.RAMACHANDRAN, S/O.GOVINDAN, RESIDING AT
MAVILAYIL AMSOM AND DESOM, KANNUR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.28888 of 2007

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Dated this the 28th day of September, 2007.

JUDGMENT

This Writ Petition is filed seeking the Executing Court to consider Ext.P2 objections and pass appropriate orders. The Execution Petition is filed for realisation of about Rs.1,45,000/- by attachment and sale of the property having an extent of 7 cents. It is submitted by the learned counsel for the writ petitioner that the judgment debtor has filed his objections on 3.10.2006 whereby he contended that the property is situated in Puzhathi, near to Kannur Town and the value of the property comes to about Rs.60,000/- to Rs.75,000/- per cent and sale of a lesser extent of property that is 2 or 3 cents will be sufficient to discharge the decree debt. According to the learned counsel, this aspect has not been considered by the court below and the sale has been ordered of the entire property.

2. The Apex Court as well as this Court in very many

decisions had reiterated that it is imperative on the part of the Executing Court to find out whether the decree debt can be discharged by selling a portion of the property, so that the sale of the entire property of the judgment debtor is not done. I am also informed by the learned counsel for the writ petitioner that the sale stands adjourned to 22.10.2007 now.

3. Therefore, I direct the court below to consider Ext.P2 objections and direct the decree holder, if necessary, to produce revised draft sale papers and also incorporate the value shown per cent by the judgment debtor and proceed to conduct the sale in accordance with law.

Writ Petition is disposed of as above.

M.N.Krishnan,
Judge.

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